



[Billing Code 3510-GT]

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA) Binational Panel Review Precluded

AGENCY: United States Section, NAFTA Secretariat, International Trade Administration, Department of Commerce.

ACTION: NAFTA Binational Panel Review is Precluded in the matter of Large Diameter Welded Pipe from Canada

SUMMARY: Notice of the Department of Commerce's Large Diameter Welded Pipe from Canada: Final Affirmative Determination of Sales at Less Than Fair Value (Final Determination) was published in the Federal Register on February 27, 2019. On May 8, 2019, the NAFTA Secretariat received a Notice of Intent to Commence Judicial Review (Notice of Intent). No action is required by the Secretariat in response to the Notice of Intent. On May 22, 2019, the Secretariat also received a Conditional Request for Panel Review (Conditional Request). The Conditional Request was submitted after the deadline for requests for panel review provided by NAFTA Article 1904(4). Panel review is therefore precluded.

FOR FURTHER INFORMATION CONTACT: Paul E. Morris, United States Secretary, NAFTA Secretariat, Room 2061, 1401 Constitution Avenue NW, Washington, DC 20230, (202) 482-5438.

SUPPLEMENTARY INFORMATION: Notice of the Department of Commerce's Final Determination was published in the Federal Register (84 FR 6378) on February 27, 2019. In the event a party wished to challenge the Final Determination, pursuant to NAFTA Article 1904(15)(c)(ii), the deadline for the submission of a Notice of Intent to Commence Judicial Review was March 19, 2019 (10 days prior to the latest date on which a panel may be requested),

and pursuant to NAFTA Article 1904(4), the deadline for the submission of a Request for Panel Review was March 29, 2019 (within 30 days of publication of the Final Determination in the Federal Register).

On May 8, 2019, the American Cast Iron Pipe Company, Berg Steel Pipe Corp., Berg Spiral Pipe Corp., Dura-Bond Industries, and Stupp Corporation, individually and as members of the American Line Pipe Producers Association ("ALPPA"); Greens Bayou Pipe Mill, LP; JSW Steel (USA) Inc.; Skyline Steel; Trinity Products LLC; and Welspun Tubular LLC filed a Notice of Intent with the NAFTA Secretariat, specifying an intention to seek judicial review at the United States Court of International Trade. The Notice of Intent was submitted 50 days after the deadline established by Article 1904(15). No further action is required by the Secretariat in response to the Notice of Intent.

On May 22, 2019, Evraz Inc. NA ("Evraz") submitted a Conditional Request to the NAFTA Secretariat, "for the purpose of challenging Petitioners' untimely attempt to appeal the underlying agency determination." The Conditional Request for Panel Review was submitted 54 days after the deadline established by Article 1904(4). Accordingly, review by a panel is precluded.

NAFTA Article 1904(4) provides:

"A request for a panel shall be made in writing to the other involved Party within 30 days following the date of publication of the final determination in question in the official journal of the importing Party. In the case of final determinations that are not published in the official journal of the importing Party, the importing Party shall immediately notify the other involved Party of such final determination where it involves goods from the other involved Party, and the other involved Party may request a panel within 30 days of receipt of such notice. Where the competent investigating authority of the importing Party has imposed provisional measures in an

investigation, the other involved Party may provide notice of its intention to request a panel under this Article, and the Parties shall begin to establish a panel at that time. Failure to request a panel within the time specified in this paragraph shall preclude review by a panel.”

Chapter 19 of Article 1904 of NAFTA provides a dispute settlement mechanism involving trade remedy determinations issued by the Government of the United States, the Government of Canada, and the Government of Mexico. For the complete text of the NAFTA Agreement and the NAFTA Rules of Procedure for Article 1904 Binational Panel Reviews, please see <https://www.nafta-sec-alena.org/Home/Legal-Texts>.

Dated: July 16, 2019.

Paul E. Morris,

U.S. Secretary,

NAFTA Secretariat.

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